

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

N.M.S., a Minor, by and through)	CASE NO. 8:16-cv-00499
Amber Short and Scott Short, as Next Friends)	
and Natural Guardians,)	
)	
Plaintiffs,)	
)	
v.)	DEFENDANT BELLEVUE
)	MEDICAL CENTER, LLC'S
HEATHER RAMSEY, APRN-CNM, THE)	MOTION FOR PROTECTIVE ORDER
MIDWIFE'S PLACE, LLC, and BELLEVUE)	
MEDICAL CENTER, LLC,)	
)	
Defendants.)	

COMES NOW Defendant Bellevue Medical Center, LLC ("Bellevue") and pursuant to FRCP 26(c) hereby makes a motion for protective order. In support of its motion, Bellevue sets forth as follows:

1. Plaintiffs have sought production from Bellevue of the entirety of four (4) insurance policies. [Doc. 84] To wit:

- a. Nebraska Medicine's Health Care Facility Medical Professional & General Liability Policy in effect October 15, 2016, to October 15, 2017, with COPIC Insurance Company (COPIC CGL Policy);
- b. Bellevue Medical Center, LLC's Health Care Liability Policy in effect from May 15, 2012, to May 13, 2012, with Zurich American Insurance Company (Bellevue Zurich Policy);
- c. Nebraska Medicine's Policy of Excess Coverage with Zurich American Insurance Company (Zurich Excess Policy); and
- d. Nebraska Medicine's Umbrella Liability Policy with COPIC Insurance Company (COPIC Umbrella Policy).

2. Plaintiffs have asserted they are entitled to complete production of the four (4) insurance policies pursuant to FRCP 26(a)(1)(A)(iv) and/or FRCP 34. [Doc. 84]

3. As set forth in more detail *infra*, in its accompanying brief, and in its evidence in support hereof, Bellevue requests the court to enter a protective order limiting the scope of

discovery and protect it from the production of all or part of the four (4) policies. [Doc. 91, Doc. 92]

4. Specifically, Bellevue seeks protection as follows:

- a. With respect to the COPIC CGL Policy, Bellevue has produced the entirety of the policy with the exception of the portions for which it now seeks protection:
 - i. The endorsements and/or riders of individual medical care providers employed by Nebraska Medicine as exceeding the scope and purpose of FRCP 26(a)(1)(A)(iv) and of FRCP 26(b).
 - ii. The portions of the policy detailing Nebraska Medicine's General Liability coverage as exceeding the scope and purpose of FRCP 26(a)(1)(A)(iv) and of FRCP 26(b).
- b. With respect to the Bellevue Zurich Policy, Bellevue seeks protection from the court from the production of any documents in addition to those already provided as outside the scope of FRCP 26(a)(1)(A)(iv) and FRCP 26(b).
- c. With respect to the Zurich Excess Policy, Bellevue seeks protection from the court from the production of the entirety of said policy as exceeding the scope and purpose of FRCP 26(a)(1)(A)(iv) per the statutory provisions of the Nebraska Hospital Medical Liability Act, Neb.Rev.Stat. §44-2801, et seq. and FRCP 26(b).
- d. With respect to the COPIC Umbrella Policy, Bellevue seeks protection from the court from the production of the entirety of said policy as exceeding the scope and purpose of FRCP 26(a)(1)(A)(iv) per the statutory provisions of the Nebraska Hospital Medical Liability Act, Neb.Rev.Stat. §44-2801, et seq. and FRCP 26(b).

5. Counsel for Bellevue has conferred with counsel for Plaintiffs in a good faith effort to resolve this dispute without Court action, but was unable to do so. [Doc.92-1]

BELLEVUE MEDICAL CENTER, LLC,
Defendant.

By /s/ Kathryn J. Cheatle

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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2018 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Patrick J. Cullan, pat@cullanlaw.com
Joseph P. Cullan, j.cullan@cullanlaw.com
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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

N/A

/s/ Kathryn J. Cheatle
Kathryn J. Cheatle